

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Patent Application of

William Freeman

Application No.: 10/531,546

Filed: October 20, 2003

For: PHOTODYNAMIC THERAPY FOR
OCULAR NEOVASCULARIZATION**MAIL STOP AMENDMENT**

Group Art Unit: 1618

Examiner: Huang, Gigi Georgiana

Confirmation No.: 3894

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In complete response to the Office Action dated July 19, 2007, Applicants submit herewith a one-month extension of time extending the period for response from August 19, 2007 until September 19, 2007 and the following response.

In the Office Action, the Examiner sets forth a restriction requirement among four (4) groups of the claims.

Group I: claims 1-18 and 24 drawn to a method for treating an ocular neovascular disease by identifying a feeder vessel in the choroidal neovascular;

Group II: claims 19-23 drawn to a method for treating an ocular neovascular disease by identifying a vessel;

Group III: claims 25-30 drawn to a system for performing photodynamic therapy on a feeder vessel in the choroidal neovasculature; and

Group IV: claims 31-39 drawn to an apparatus for imaging and treating a feeder vessel associated with the choroidal neovasculature.

In response, Applicants hereby elect with traverse the claims of Group I (claims 1-18 and 24), which are drawn to a method for treating an ocular neovascular disease by identifying a feeder vessel in the choroidal neovascular.

The Applicants traverse the election of Group I for at least the following reasons. Under M.P.E.P § 803, a restriction is proper if the subject matter can be restricted into one of two or more claimed inventions, and these inventions are either independent (M.P.E.P § 806.04) or distinct (M.P.E.P § 806.05). However, the second element for a restriction requirement to be proper is that if the search and examination of an entire application can be made without serious burden, the examiner must examine the entire application on the merits, even though it includes claims to independent and distinct inventions.

Applicants respectfully assert that the inventions of Group I and Group II should be rejoined and examined together. The inventions of Groups I and II relate to methods for treating an ocular neovascular disease by identifying a vessel appropriate treatment and exposing the vessel to photodynamic therapy. Thus, Groups I and II share the same corresponding technical feature as to form a single inventive concept.

Applicants submit that the claims of Groups I and II can be searched simultaneously, and that a duplicative search, with possibly inconsistent results, may occur if the restriction requirement is maintained. Applicants submit that any nominal burden placed upon the Examiner to search accordingly to determine the art relevant to Applicants' overall invention is significantly outweighed by the public's interest in not having to obtain and study many separate patents in order to have available all of the issued patent claims covering Applicants' invention. The alternative is to proceed with the filing of multiple applications, each consisting of generally the same disclosure, and each being subjected to essentially the same search, perhaps by different Examiners on different occasions. This process would place an unnecessary burden on both the Patent and Trademark Office and on the Applicants.


Applicants respectfully request reconsideration of the restriction requirement and withdrawal of the election requirement as it applies to Group I and Group II. Applicants have no intention of abandoning any non-elected subject matter and should it be necessary, Applicants expressly reserve the right to file one or more continuation and/or divisional applications directed to non-elected subject matter.

The Examiner is invited to contact the undersigned at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY LLP

Date: August 23, 2007

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